

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: REVISIONS TO SMALL VOLUME GAS TRANSPORTATION SERVICE RULES [199 IAC 19.13(4)"e," 19.13(4)"f," 19.13(6), and 19.14(5)"d"]	DOCKET NO. RMU-03-6
---	---------------------

ORDER ADOPTING AMENDMENTS

(Issued April 8, 2004)

Pursuant to Iowa Code §§ 17A.4, 476.1, 476.2, 476.10, 476.86, and 476.87, the Utilities Board (Board) is adopting the amendments attached hereto and incorporated herein by reference. On September 26, 2003, the Board issued an order in Docket No. RMU-03-6, In re: Revisions to Small Volume Gas Transportation Service Rules [19.13(4)"e," 19.13(4)"f," 19.13(6), and 19.14(5)"d"], "Order Commencing Rule Making." In the rule making, the Board proposed to adopt amendments to comply with the Board's order in Docket No. NOI-98-3 that closed the inquiry into a comprehensive plan to allow small volume customers, including residential customers, to transport natural gas. In closing Docket No. NOI-98-3, the Board directed that paragraphs 199 IAC 19.13(4)"e," 19.13(4)"f," and 19.14(5)"d" be rescinded and subrule 19.13(6) amended.

On October 15, 2003, a "Notice of Intended Action" was published in IAB Vol. XXVI, No. 8 (10/15/03) p. 704, as ARC 2882B. Comments concerning the proposed rescissions and amendment were filed by the Consumer Advocate Division of the

Department of Justice (Consumer Advocate), MidAmerican Energy Company (MidAmerican), Interstate Power and Light Company (IPL), and Cornerstone Energy, Inc. (Cornerstone). The comments made by the participants and amendments adopted by the Board are discussed below.

MidAmerican

MidAmerican stated that it had no objection to the proposed rescissions and amendment.

IPL

IPL stated that it supports the proposed rescission of paragraphs 19.13(4)"e," 19.13(4)"f," and 19.14(5)"d" and the amendment to subrule 19.13(6) relating to the transportation of natural gas by small volume customers.

Cornerstone

Cornerstone is a competitive natural gas provider (CNGP) certificated to market natural gas in Iowa. Cornerstone stated that it provides a number of products and professional services to its customers, including commodity and capacity procurement; management of risk; nominations and imbalances; pipeline and local distribution company rate negotiation; asset optimization; and energy consultation. Cornerstone stated that many of its services are of interest to small volume commercial and industrial customers. Cornerstone indicated that it does not have any residential customers and does not intend to serve residential customers.

Cornerstone also indicated that it does not object to the proposed rescissions and amendments but is concerned about the underlying premise that signals to providers and consumers that the Board no longer has an interest in providing a fair and open transportation system for small volume commercial and industrial customers. Cornerstone suggested that small volume commercial and industrial customers should be allowed to access CNGP's not associated with the regulated natural gas utilities.

Cornerstone further suggested that the Board indicate in this rule making that it intends to propose a new oversight mechanism that would ensure transportation tariffs are workable for small volume commercial and industrial customers as well as large volume customers.

Consumer Advocate

Consumer Advocate stated it had no objection to the proposal to rescind paragraphs 19.13(4)"e" and "f." Consumer Advocate stated that it supports the amendment to subrule 19.13(6) that indicate a utility is obligated to provide gas to small volume customers in the event of supply failure but believes that small volume customers are subject to other risks under existing rules and utility company tariff provisions. These risks are in paragraphs 19.13(4)"a" through "c" and 19.14(6)"g."

Consumer Advocate suggested that paragraphs 19.13(4)"a," "b," and "c" do not distinguish between large and small volume customers and the paragraphs require a customer to purchase supply reserve to return to system service.

Consumer Advocate suggested that the Board originally proposed to require CNGPs

to pay replacement costs for supply failure but instead adopted paragraph 19.14(6)"g" that requires utilities to file tariffs establishing rates to be charged to small volume customers for supply failure.

Consumer Advocate suggested that small volume transportation customers should be notified of the risks associated with transporting gas similar to the notice given large volume customers. In light of these risks, Consumer Advocate stated that it opposes the proposed amendment to subrule 19.13(6). Instead, Consumer Advocate recommends that the subrule be rescinded and a new subrule be adopted as follows:

19.13(6) *Written notice of risks.* The utility must notify its customers contracting for transportation service in writing that unless the customer buys system supply reserve service from the utility, the utility is not obligated to supply gas to the customer. The notice must also advise the customer of the nature of any identifiable penalties, any administrative or reconnection costs associated with purchasing available firm or interruptible gas, and how any available gas would be priced by the utility. The notice may be provided through a contract provision or separate written instrument. The customer must acknowledge in writing it has been made aware of the risks and accepts the risks.

Consumer Advocate then suggested if the Board intends to exempt small volume customers from the requirements in paragraphs 19.13(4)"a," "b," and "c," the paragraphs should be amended to clarify that policy. The small volume transportation customer should be notified of any remaining risk.

Board Analysis

The purpose of the proposed amendments rescinding paragraphs 19.13(4)"e" and "f" is to remove those provisions of the Board's rules that were only applicable if a comprehensive plan for small volume transportation was developed. No comments were received opposing the rescission of paragraphs 19.13(4)"e" and "f" and those rescissions will be adopted.

The Board understands the comments made by Cornerstone and has opened an inquiry into the risk management of utility bills, In re: Review of Bill Risk Management for Natural Gas Customers, Docket No. NOI-03-5, to consider, among other items, options for allowing small volume commercial and industrial customers to better manage their purchases of natural gas. Cornerstone's comments will be addressed in that inquiry.

The Board has previously addressed the issue of what risk a small volume customer faces if the customer chooses to become a transportation customer. The Board limited the requirement of notifying customers of the risk of transporting natural gas to large volume customers in an amendment to subrule 19.13(6) adopted in Docket No. RMU-00-7, In re: Natural Gas Marketer Certification (February 19, 2001). The amendment limited the requirement of written notice to large volume transportation customers since the utility has the obligation to supply gas to small volume transportation customers who wish to return to system gas or who wish to continue to transport and experience supply failure. Therefore, a small volume customer did not risk loss of gas supply.

Since the utility must supply gas to a small volume transportation customer, the customer is not required to purchase system supply reserve under paragraph 19.13(4)"a" and is not subject to paragraph 19.13(4)"b." In Docket No. RMU-00-7, the Board did not address the issue of what charges or fees a small volume customer would be required to pay for transportation service or for reconnection. Paragraph 19.13(4)"c" provides that the utility may require a reconnection charge and, under current rules, the small volume customer would be subject to any applicable reconnection charges included in the utility tariff. They would also be subject to any rates for the use of facilities, equipment, or services of the transporting utility as required by paragraph 19.13(4)"d."

In the order closing the inquiry in Docket No. NOI-98-3, the Board stated that a utility is required to supply gas to a small volume customer and the proposed amendment to subrule 19.13(6) was intended to add specific language concerning the utility's obligation. In that order, the Board stated:

3. The Board will propose an amendment to subrule 199 IAC 19.13(6). The subrule was amended to limit to large volume customers the requirement that utilities notify transportation customers of the risk of not being able to return to system supply and that the utility is not obligated to supply natural gas to the customer without the purchase of back-up service from the utility. The Board will propose to amend this rule to explicitly state that the utility shall allow small volume customers, as defined in subrule 19.14(1), to return to system supply.

The Board finds that Consumer Advocate is correct that the proposed amendment in this rule making does not address all the issues regarding

transportation of gas by small volume customers. The proposed amendment is intended to clarify the Board's statements concerning the utility's obligation to supply gas to small volume customers if the small volume customer experienced supply failure. On November 17, 2003, the Board approved tariffs establishing replacement costs for small volume customers in the event of supply failure. Other issues involving transportation service for small volume customers are being addressed in two other pending dockets, In re: Review of Bill Risk Management For Natural Gas Customers, Docket No. NOI-03-5, and In re: Iowa Joint Utility Management Program, Inc., Docket No. SPU-04-1.

Since the proposed amendment is intended to provide clarification and there are other issues involving small volume gas transportation being considered in other dockets, the Board will not adopt the proposed amendment in this rule making. The issue of what notice a small volume transportation customer should receive will be addressed with the other issues involving small volume gas transportation in Docket No. NOI-3-5. The Board can then decide what changes need to be proposed to existing rules in a more comprehensive manner. Consideration of all proposed rule changes concerning small volume transportation should allow the Board and interested parties the opportunity to address those changes simultaneously.

Three of the four parties filing comments expressed no objection to the proposed rescission of paragraph 19.14(6)"d," eliminating the monthly filing requirement for CGNPs. Cornerstone suggested expanding the reporting requirement to include marketing divisions of rate-regulated natural gas utilities.

Under the statutory definition of a CNGP in Iowa Code § 476.86, rate regulated natural gas utilities providing non-regulated retail marketing service to transportation customers are not required to be certificated and, therefore, are not covered by the requirement in 19.14. The question of whether the rate-regulated natural gas utilities should be required to provide data on transported volumes is beyond the scope of this rule making and Cornerstone's proposed revision will not be adopted.

IT IS THEREFORE ORDERED:

1. A rule making proceeding, identified as Docket No. RMU-03-6, is adopted.
2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin an "Adopted and Filed" notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 8th day of April, 2004.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, 476.10, 476.86, and 476.87, the Utilities Board (Board) issued an order on April 8, 2004, in Docket No. RMU-03-6, In re: Revisions to Small Volume Gas Transportation Service Rules [19.13(4)"e," 19.13(4)"f," 19.13(6), and 19.14(5)"d."], "Order Adopting Amendments."

The proposed amendments were designed to comply with the Board's order in Docket No. NOI-98-3 in which the Board closed the inquiry into the development of a comprehensive plan to allow small volume customers, including residential customers, to transport natural gas. In closing Docket No. NOI-98-3, the Board directed that paragraphs 19.13(4)"e," 19.13(4)"f," and paragraph 19.14(5)"d" be rescinded and subrule 19.13(6) be amended.

On October 15, 2003, a "Notice of Intended Action" was published in IAB Vol. XXVI, No. 8 (10/15/03) p. 704, as ARC 2882B. Comments concerning the proposed rescissions and amendments were filed by the Consumer Advocate Division of the Department of Justice, MidAmerican Energy Company, Interstate Power and Light Company, and Cornerstone Energy, Inc. A summary of the comments filed and the amendments adopted can be found in the Board's order located on the Board's Web site, www.state.ia.us/iub, or in hard copy in the Board's Record Center, 350 Maple Center, Des Moines, IA 50319. The Board determined based upon the comments

that the proposed amendment to subrule 19.13(6) should not be adopted. The Board adopted the other proposed amendments.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.2, 476.10, 476.86, and 476.87.

These amendments will become effective June 2, 2004.

The following amendments are adopted.

Item 1. Rescind paragraph 19.13(4)"e."

Item 2. Rescind paragraph 19.13(4)"f."

Item 3. Rescind paragraph 19.14(5)"d."

April 8, 2004

/s/ Diane Munns

Diane Munns
Chairman